HONOURABLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO.17228 OF 2004

Between

Pasham Krishna Reddy

…Petitioner

And

The Deputy Secretary, Ministry of Home Affairs, Freedom Fighters Division, 1st floor, Lok Nayak Bhavan, New Delhi and three others.

…Respondents

:: O R D E R ::

Counsel for the Petitioner : Shri S.Tulasi Das

Counsel for Respondent Nos.2 & 3: Shri Y.Ravindra for Smt P.Sarada

Counsel for Respondent No.4 : Government Pleader for Revenue

Dated: 14th November 2006

In this petition, the petitioner has prayed for issue of a mandamus to the respondents to consider his application for grant of pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme') with effect from 03.08.1998.

The aforementioned prayer of the petitioner is founded on the assertion that he had participated in freedom struggle against the Government of Nizam and remained in jail during 1947-48. He also claims to have been the In-charge of Jaggudem camp in Nalgonda District. He filed application in the year 1998 for grant of pension under the 1980 Scheme. His grievance is that even though a period of six years has elapsed (as on today, a period of eight years has elapsed), the respondents have not decided his claim, despite the fact that similar claims have been decided and accepted by the Supreme Court in **Mukund Lal Bhandari v. Union of India**[1]."

Although counter-affidavit has not been filed by either of the respondents, I do not consider it proper to defer the adjudication of the writ petition because after hearing Shri S.Tulasi Das, learned counsel for the petitioner, I am convinced that the petitioner has failed to make out a case for issue of a direction in terms of the prayer made.

Point No.2.2 of the 1980 Scheme, which has a bearing on the petitioner's claim for grant of pension by being treated as a freedom fighter reads as under:

> "2.2 **Imprisonment**: - A person who had suffered minimum imprisonment of six months (3 months in case of women, SC/ST freedom fighters) on account of participation of freedom struggle subject to furnishing of the following evidences: -
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> (a) Imprisonment/detention certificate form the concerned all authority, District Magistrate or the State Govt. Indicating the period of sentence awarded, date of admission, date of release, facts of the case and reasons for release. OR
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> (b) In case records of the relevant period are not available, a non-availability of records certificate **(NARC) form the concerned State/Union Territory Administration** along with 2 Co-prisoner certificates (CPC) from freedom fighters who have proven jail suffering of minimum 1 year and who were with the applicant in the jail.

> In case the certified happens to sitting or Ex. M.P./M.L.A., only one certifier in place of the two is required.
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> Gist of relevant Circulars/Instructions issued by the Govt. of India under the Scheme regarding claims based 'Imprisonment/Detention is given in **Appendix B."**

A reading of the above reproduced paragraph of the 1980 Scheme makes it clear that for substantiating his claim for grant of pension, the applicant must produce tangible evidence to show that he had suffered imprisonment of six months on account of participation in freedom struggle. If the records of the relevant period are not available, a non-availability of records certificate is to be obtained from concerned State/Union Territory Administration along with two co-prisoner certificates from freedom fighters who have proven jail suffering of atleast one year and who were with the applicant in the jail. In the present case, the petitioner has not produced any evidence to show that he had suffered imprisonment of six months on account of participation in freedom struggle. Therefore, it is not possible to direct the respondents to entertain his claim and sanction pension in his favour.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.22606 of 2004 filed by the petitioner for issue of interim direction is also dismissed.

G.S.SINGHVI, CJ

14.11.2006
dr

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[1] AIR 1993 SC 2127